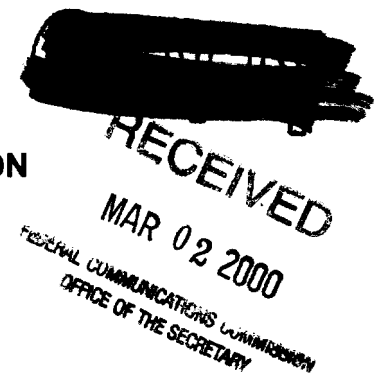


Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554



In the Matter of )

Interconnection and Resale Obligations )  
Pertaining to Commercial Mobile )  
Radio Services )

WT Docket No. 98-100  
CC Docket No. 94-54 ✓

**GTE OPPOSITION TO PETITION FOR  
FURTHER RECONSIDERATION**

Pursuant to Section 1.429(f) of the Commission's Rules, 47 C.F.R. § 1.429(f), GTE Service Corporation and its below-listed affiliates (collectively "GTE")<sup>1</sup> hereby oppose the Petition for Further Reconsideration filed in the above-captioned docket by MCI WorldCom, Inc. ("MCI WorldCom").<sup>2</sup> The petition is flawed, in that it fails to provide any factual or legal basis for the Commission to conclude that reconsideration of the Memorandum Opinion and Order on Reconsideration in this proceeding<sup>3</sup> is warranted

---

<sup>1</sup> GTE Alaska Incorporated, GTE Arkansas Incorporated, GTE California Incorporated, GTE Florida Incorporated, GTE Hawaiian Telephone Company Incorporated, The Micronesian Telecommunications Corporation, GTE Midwest Incorporated, GTE North Incorporated, GTE Northwest Incorporated, GTE South Incorporated, GTE Southwest Incorporated, Contel of Minnesota, Inc., GTE West Coast Incorporated, Contel of the South, Inc., GTE Communications Corporation, GTE Wireless Incorporated, and GTE Information Services.

<sup>2</sup> MCI WorldCom, Inc. Petition for Further Reconsideration, WT Dkt. No. 98-100 (filed Dec. 9, 1999) ("*MCI Petition*"). See 65 Fed. Reg. 7873 (Feb. 16, 2000).

<sup>3</sup> *Interconnection and Resale Obligations Pertaining to Commercial Mobile Radio Services*, 17 Comm. Reg. 518 (Sept. 27, 1999) (Memorandum Opinion and Order on Reconsideration) ("*Resale Recon. Order*").

and that the relief requested by MCI WorldCom should be granted. First, the petition provides no justification for extension of the sunset date for the mandatory resale rule. Second, the petition likewise provides no justification to extend resale requirements to enhanced E911 wireless handsets. Accordingly, the Petition for Further Reconsideration filed by MCI WorldCom should be promptly dismissed or denied.

**I. MCI WorldCom Has Provided No Justification for Extending the Mandatory Resale Rule Sunset Date Beyond November 24, 2002**

In its petition, MCI WorldCom “requests the Commission [to] extend the mandatory resale rule sunset date from November 24, 2002 to November 24, 2003 at the earliest, or to extend the sunset date to at least one full year after the successful conclusion of wireless local number portability (LNP) implementation.”<sup>4</sup> MCI WorldCom argues that local number portability must be in place before sunset in order to avoid possible harm to wireless resale customers. As demonstrated below, however, MCI’s requests regarding wireless LNP are substantively unnecessary and procedurally improper in this docket.

MCI WorldCom argues that, “[w]ithout LNP, any wireless carrier choosing to terminate its resale arrangements could potentially strand wireless resale customers,”<sup>5</sup> resulting in customers having to change their numbers. GTE disagrees. MCI WorldCom bases its request for relief largely on unsupported suppositions about the likely future behavior of facilities-based carriers vis-à-vis resellers. The petitioner

---

<sup>4</sup> See MCI Petition at 1.

<sup>5</sup> *Id.* at 2.

provides no facts or other rational basis to support its negative claims. The Commission's resale rule, designed to promote competition,<sup>6</sup> not protect individual resellers, should not be modified based solely on MCI WorldCom's speculative claims.

In fact, despite MCI WorldCom's predictions of doom, GTE expects resale to continue to be a viable sales channel and business operation even after the resale rule sunsets. The Commission has twice concluded—with a solid factual basis—that “as markets become more competitive, the benefits to be attained through a resale rule generally diminish because carriers have less opportunity and incentive anticompetitively to restrict resale’ and that ‘the competitive development of broadband PCS service will obviate the need for a resale rule in the cellular and broadband PCS market sector.’”<sup>7</sup> There simply is no need to extend the resale rule beyond its current November 24, 2002 sunset date.

Moreover, the Commission would be justified in dismissing at least this portion of MCI's reconsideration petition as repetitious under Section 1.429(i). In its First Report and Order in this proceeding and subsequent Public Notice, the Commission established the sunset date for the mandatory resale rule as November 24, 2002.<sup>8</sup> In

---

<sup>6</sup> See *Interconnection and Resale Obligations Pertaining to Commercial Mobile Radio Services*, 11 FCC Rcd 18455, 18468-69 (1996) (First Report and Order) (“*First Report and Order*”).

<sup>7</sup> *Resale Recon. Order*, 17 Comm. Reg. at 523, citing *First Report and Order*, 11 FCC Rcd at 18463, 18468.

<sup>8</sup> See *First Report and Order* at 18468-69; see also *FCC Public Notice, Commencement of Five-Year Period Preceding Termination of Resale Rule Applicable to Certain Covered Commercial Mobile Radio Service Providers*, 13 FCC Rcd 17427 (1998).

the order that is the subject of MCI WorldCom's petition, the Commission reaffirmed its decision regarding the sunset date in response to petitions seeking to delay or omit the sunset date. In that prior reconsideration phase, the Commission fully considered arguments made by MCI WorldCom<sup>9</sup> and others for extension or abandonment of the sunset rule. The Commission rejected the requests to alter the resale rule sunset date. In its most recent petition, MCI WorldCom has offered no new facts or theories why the Commission should reverse a decision it has now endorsed on two separate occasions. Indeed, because the Commission did not alter the sunset rules in ways material to MCI WorldCom's request for relief, the sunset rule is not properly a target of further reconsideration under Section 1.429(i).<sup>10</sup> These procedural deficiencies in MCI WorldCom's petition only underscore the substantive inadequacies of its arguments.

Finally, although couched as a petition for further reconsideration in the CMRS resale proceeding, MCI WorldCom in fact is using this proceeding as another forum to seek reconsideration of the Commission's wireless local number portability ("LNP") decision.<sup>11</sup> MCI WorldCom's efforts to link wireless LNP and resale are, as discussed above, based on nothing more than unfounded, unsupported suppositions. Moreover, many aspects of MCI WorldCom's proposals for wireless LNP in this CMRS resale

---

<sup>9</sup> See MCI Comments on Petitions for Reconsideration, CC Dkt. No. 94-54, at 2 (filed Sept. 27, 1996).

<sup>10</sup> See, e.g., *Accounting Safeguards Under the Telecommunications Act of 1996*, FCC 00-9, ¶ 3 & n.17 (rel. Jan. 18, 2000) (Second Order on Reconsideration); *Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service*, 14 FCC Rcd 11572, 11573 (1999).

<sup>11</sup> See MCI Petition for Reconsideration, WT Dkt. No. 98-229 (filed May 27, 1999) ("MCI LNP Petition").

docket simply repeat, verbatim, MCI WorldCom's petition for reconsideration in the wireless LNP proceeding. As such, these arguments should not be considered in this docket, and may simply be rejected by the Commission as procedurally improper.

Moreover, the wireless LNP relief sought by MCI WorldCom (including its request for benchmarks and reporting requirements) – whether in this docket or WT Docket No. 98-229 – simply are not necessary to serve the public interest. Indeed, the Commission has very recently rejected MCI WorldCom's petition for reconsideration in WT Docket No. 98-229.<sup>12</sup> In that decision, the Commission concluded, among other things, that MCI WorldCom's request for reporting requirements was unnecessary at this time, given the need to allow the wireless industry to develop and implement LNP measures and in light of monthly reports on wireless LNP to the North American Numbering Council.<sup>13</sup> Given the Commission's rejection of at least a portion of MCI WorldCom's requested relief in WT Docket No. 98-229, there is no reason to use this resale docket to impose such requirements now.

**II. MCI WorldCom Has Provided No Justification for the Commission To Alter, Even in Part, Its Determination To Exclude CPE From the CMRS Resale Rule**

In its petition, MCI WorldCom requests that the Commission "reconsider in part its exemption of mandatory resale of CPE. Resellers should be able to resell enhanced

---

<sup>12</sup> *Cellular Telecommunications Industry Association's Petition for Forbearance From Commercial Mobile Radio Services Number Portability Obligations*, FCC 00-47 (rel. Feb. 23, 2000) (Order on Reconsideration).

<sup>13</sup> *Id.* at ¶ 15.

E911 wireless handsets . . . .”<sup>14</sup> MCI WorldCom’s request for reconsideration of this aspect of the resale rule is without justification.

Initially, just as it does in making arguments about wireless LNP, MCI WorldCom includes only speculative assertions regarding possible harms that might befall CMRS resellers with regard to handset solutions to meet the Commission’s E911 requirements. MCI WorldCom posits that resellers will not be able to obtain such equipment on a timely basis from either manufacturers or facilities-based carriers, unless a resale obligation is imposed with respect to such CPE.<sup>15</sup> MCI WorldCom does not support these “theoretical possibilities” with any evidence. Because these concerns and claims are supported solely by conjecture, the Commission should deny the petition.

In the *Resale Recon. Order*, the Commission found that there was “no evidence in the record,” only the “theoretical possibility” of anticompetitive cross-subsidization with regard to wireless CPE.<sup>16</sup> The Commission further determined that resellers are not prevented from obtaining CPE from sources other than CMRS carriers or from negotiating with equipment manufacturers for discounted prices.” As a result, the

---

<sup>14</sup> MCI Petition at 1.

<sup>15</sup> *Id.* at 5. MCI WorldCom also asks the Commission to make clear to “facilities-based wireless carriers that they must provide to reseller customers any network-based E911 capabilities that the underlying carriers adopt in their networks.” *Id.* Again, MCI WorldCom has failed to provide the Commission with any reason to believe that there is a problem here that needs to be addressed. Initially, GTE points out that carriers aren’t even required to choose their E911 technology yet. See 47 C.F.R. § 20.18(h). In addition, there is no reason to believe that, from a network standpoint, carriers could target the E911 capabilities to certain customers and deny them to other customers.

<sup>16</sup> *Resale Recon. Order* at ¶ 29.

Commission removed CPE from the mandatory resale requirements.<sup>17</sup> The Commission also noted "smaller resellers have alternatives to obtain CPE volume discounts comparable to those available to large resellers and facilities-based carriers. For example, firms in other industries have formed buying consortia."<sup>18</sup> The Commission thus specifically addressed MCI WorldCom's concerns regarding provision of CPE. Adding in handset capabilities to comply with Commission requirements, whether for E911 or otherwise, does nothing to change that analysis.

In fact, while MCI WorldCom now mentions E911 concerns for the first time, nothing in MCI WorldCom's current claims regarding E911 handset solutions extends beyond "theoretical possibility." MCI WorldCom has done nothing to refute the Commission's conclusions regarding CPE availability to resellers. At present, handsets necessary to accommodate the Commission's E911 requirements currently are not available to facilities-based carriers or resellers due to the status of technical development.<sup>19</sup> There is no reason in the record now before the Commission to believe facilities-based carriers will be able to buy such handsets and resellers will not once the modified handsets are available to the marketplace. Accordingly, MCI WorldCom's request regarding CPE should be denied.

---

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*


<sup>19</sup> See, e.g., Comments to Petitions for Reconsideration of GTE Service Corporation, CC Dkt. No. 94-102, at 4-5 (filed Feb. 22, 2000).

### III. Conclusion

Because the Petition for Further Reconsideration filed by MCI WorldCom is procedurally misplaced and repetitive, and provides no justification for extension of the mandatory resale rule sunset date or for re-modification of the CPE resale requirements, the Petition should be promptly dismissed or denied.

Respectfully submitted,

GTE SERVICE CORPORATION AND  
ITS DESIGNATED AFFILIATES

By: André J. Lachance 

André J. Lachance  
GTE SERVICE CORPORATION  
1850 M Street, N.W.  
Suite 1200  
Washington, D.C. 20036  
(202) 463-5276

John F. Raposa  
GTE SERVICE CORPORATION  
600 Hidden Ridge, HQE03J27  
P.O. Box 152092  
Irving, TX 75015-2092  
(972) 718-6969

Its Attorneys

March 2, 2000



**CERTIFICATE OF SERVICE**

I hereby certify that on this 2<sup>nd</sup> day of March, 2000, I caused copies of the foregoing Opposition to MCI WorldCom, Inc.'s Petition for Further Reconsideration to be hand-delivered to the following:

Anne F. LaLena  
MCI WorldCom, Inc.  
1801 Pennsylvania Ave, N.W.  
Washington, D.C. 20006

Chrise Turner